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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/777,884

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James A. Johanson

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CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC

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EXAMINER

WIDHALM, ANGELA M

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/777,884	<b>Applicant(s)</b> JOHANSON ET AL.	
	<b>Examiner</b> ANGELA WIDHALM	<b>Art Unit</b> 2452	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 5) ☒ Claim(s) 19 and 30-34 is/are pending in the application.
- 5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 19 and 30-34 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

\* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see [http://www.uspto.gov/patents/init\\_events/pph/index.jsp](http://www.uspto.gov/patents/init_events/pph/index.jsp) or send an inquiry to [PPHfeedback@uspto.gov](mailto:PPHfeedback@uspto.gov).

#### Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☒ The drawing(s) filed on 07 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 3) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Other: \_\_\_\_.

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 27 April 2012 has been entered.

2. This is a non-final office action in response to remarks filed on 27 April 2012. Claims 19 and 30-34 are amended. Claims 3, 5, 35, and 37 are newly canceled. No additional claims are added. Claims 19 and 30-34 are pending.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 19 and 30-34 have been considered but are moot because the arguments do not apply to any of the references being used in the current rejection.

4. Applicant argues the prior art does not teach the amended claimed features of transmitting a Bluetooth signal from a first type of hand-held electronic device to a plurality of disparate types of nearby, hand-held electronic devices (see pages 5-6), however examiner has incorporated a new reference, Logan, into Fumarolo's teachings.

Fumarolo discloses detecting nearby hand-held electronic devices (handheld radio and vehicle are disparate types), using GPS to provide location information, and displaying device locations on a map. Multiple devices are displayed on the map, therefore a plurality of signals must be first detected and received from the devices, and devices are selected devices for communication based on the location information displayed in the map to create a talkgroup (see Fumarolo fig. 3 #105, #112; col. 5 line 35-41; col. 5 line 61 – col. 6 line 12; col. 13 lines 32-42; col. 16 line 54 – col. 17 line 6), col. 13 lines 32-42:.. Devices send their GPS coordinates).

Fumarolo did not explicitly disclose sending location information to nearby, hand-held electronic devices, Bluetooth communication between devices providing their location information, nor presenting the map on a display of the first type of hand-held electronic device, however in a related art, Logan disclosed Bluetooth devices communicating with each other to discover, detect, and report the position of nearby Bluetooth devices. For instance device F communicates with nearby devices G and I and communicates with device A via the Internet and thereby also communicates with devices B, C, and D which are near device A. These devices are of disparate types according to col. 2 lines 29-42 which explains that Bluetooth devices include laptop computers, PDAs, cellular phone. Col. 7 lines 21-28 explain an exemplary use in which a user consults a display on a cell phone to provide location information for the Bluetooth devices car lock control and tv remote control. These are all three disparate handheld Bluetooth electronic devices in communication with each other. Logan also explains that an object whose position is being tracked includes a GPS receiver for

determining the object's absolute position in latitude and longitude and provides their GPS location information. See Logan fig. 2, col. 2 lines 29-42, col. 4 line 51 – col. 5 line 6, col. 5 lines 35-40, col. 7 lines 21-28.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of Fumarolo and Logan to further explain how devices communicate with each other. Incorporating Bluetooth technology would enable devices to communicate at short range with each other.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 19 and 30-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fumarolo et al. (U.S. Patent 6,204,844) in view of Logan (U.S. Patent 6,631,271).

Some claims will be discussed together. Those claims which are essentially the same are rejected under the same rationale applied to the described claim.

7. Regarding claims 19 and 32, Fumarolo disclosed a method for selecting a nearby, hand-held electronic device comprising:

transmitting a signal from a first type of hand-held electronic device to a plurality of disparate types (see Fumarolo fig. 3 #105, #112: handheld radio and vehicle are

disparate types; col. 5 line 35-41: detecting nearby hand-held electronic devices and displaying device locations on a map. Multiple devices are displayed on the map, therefore a plurality of signals must be first detected and received from the devices);

detecting a plurality of signals from the nearby, hand-held electronic devices, each signal containing GPS coordinates of at least one of the nearby, hand-held electronic devices (see Fumarolo col. 5 line 35-41, col. 13 lines 32-42: detecting nearby hand-held electronic devices, using GPS to provide location information, and displaying device locations on a map. Multiple devices are displayed on the map, therefore a plurality of signals must be first detected and received from the devices);

displaying hand-held electronic devices, from among the plurality of types of disparate nearby, hand-held electronic devices, within a determined range of the first type of hand-held electronic device (Fumarolo col. 5 line 35-41, col. 13 lines 32-42, col. 16 line 54 – col. 17 line 6: detecting nearby hand-held electronic devices and displaying device locations on a map); and

selecting one of the nearby, hand-held electronic devices associated with one of the detected signals to communicate with based on the received GPS coordinates (see Fumarolo col. 5 line 61 – col. 6 line 12, col. 13 lines 32-42: displaying nearby devices on a map and selecting devices for communication based on the location information displayed in the map to create a talkgroup. Devices send their GPS coordinates).

Fumarolo did not explicitly disclose sending location information to nearby, hand-held electronic devices, Bluetooth communication between devices providing their location information, nor presenting the map on a display of the first type of hand-held

electronic device, however in a related art, Logan disclosed Bluetooth devices communicating with each other to discover, detect, and report the position of nearby Bluetooth devices. For instance device F communicates with nearby devices G and I and communicates with device A via the Internet and thereby also communicates with devices B, C, and D which are near device A. These devices are of disparate types according to col. 2 lines 29-42 which explains that Bluetooth devices include laptop computers, PDAs, cellular phone. Col. 7 lines 21-28 explain an exemplary use in which a user consults a display on a cell phone to provide location information for the Bluetooth devices car lock control and tv remote control. These are all three disparate handheld Bluetooth electronic devices in communication with each other. Logan also explains that an object whose position is being tracked includes a GPS receiver for determining the object's absolute position in latitude and longitude and provides their GPS location information. See Logan fig. 2, col. 2 lines 29-42, col. 4 line 51 – col. 5 line 6, col. 5 lines 35-40, col. 7 lines 21-28.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of Fumarolo and Logan to further explain how devices communicate with each other. Incorporating Bluetooth technology would enable devices to communicate at short range with each other.

8. Regarding claims 30 and 33, Fumarolo-Logan further disclosed:

displaying the location of each nearby, hand-held electronic device associated with the detected GPS coordinates (see Fumarolo col. 5 lines 35-41: displaying a map

with representations of communication units positioned on and off streets in a geographic area of the communication system); and

selecting the nearby, hand-held electronic device to communicate with based on the displayed locations (see Fumarolo col. 13 lines 43-58: selecting a communication unit from the map for inclusion in a talkgroup to enable communication with other members of the talkgroup. If applicant intends for the nearby devices to be displayed at a first device located within the same area as the nearby devices and the first device selecting the nearby device from the displayed map for communication between the first device and the selected device, then examiner recommends amending the claims to describe this, however the scope of the claims as currently written does not specify this and the displayed map and selection can occur at any device).

9. Regarding claims 31 and 34, Fumarolo-Logan further disclosed selecting a nearby, hand-held electronic device associated with a shortest location (see Fumarolo col. 16 lines 8-26, col. 17 lines 25-42: selecting a device based on its location. Some examples of how a user specifies location areas are "click-and-drag", pre-established areas of varying sizes, and receiving location area specifications from another device. A device associated with a shortest location is interpreted as a device within a small area. The claim does not describe selecting based on the shortest distance between the devices. If this is the intended interpretation, examiner recommends amending the claims as such).



### ***Conclusion***

**Examiner's Note:** Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANGELA WIDHALM whose telephone number is (571)272-1035. The examiner can normally be reached on M-F, 6:00am-2:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thu Nguyen can be reached on (571) 272-6967. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. W./

Examiner, Art Unit 2452

18 May 2013